



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-011]

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that exporters and/or producers subject to the administrative review of certain crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China) received countervailable subsidies during the January 1, 2017 through December 31, 2017 period of review.

DATES: Applicable [Insert Date of Publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586.

SUPPLEMENTARY INFORMATION:

Background

On April 16, 2019, Commerce published the *Preliminary Results* of this administrative review, and invited interested parties to comment on the *Preliminary Results*.¹ On May 16, 2019, Changzhou Trina Solar Energy Co., Ltd. and Trina Solar (Changzhou) Science and Technology Co., Ltd. (collectively, Trina Solar), a company subject to this administrative review but not selected for individual examination, timely submitted comments on the *Preliminary Results* and

¹ See *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, and Rescission of Review in Part; 2017*, 84 FR 15585 (April 16, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

requested a hearing.² On May 21, 2019, SolarWorld Americas, Inc. (the petitioner in the underlying countervailing duty investigation), filed timely rebuttal comments.³ On July 31, 2019, Commerce extended the deadline for these final results until October 10, 2019.⁴ On August 28, 2019, Commerce permitted interested parties to supplement their case and rebuttal briefs to address a claim of no shipments submitted by Trina Solar,⁵ for which Commerce received comments from Trina Solar on September 9, 2019.⁶ On September 16, 2019, Commerce received rebuttal comments on this issue from domestic interested party SunPower Manufacturing Oregon LLC.⁷ On September 19, 2019, Trina Solar withdrew its request for a hearing.⁸ For a detailed history of the events that occurred since the publication of the *Preliminary Results*, see the Issues and Decision Memorandum.⁹

Scope of the Order

The merchandise covered by this order are modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of this order, subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic

² See Trina Solar's Letter, "Certain Crystalline Silicon Photovoltaic Products from China: Request for a Hearing and Case Brief," dated May 16, 2019.

³ See Petitioner's Letter, "Crystalline Silicon Photovoltaic Products from the People's Republic of China: SolarWorld America's Rebuttal Brief," dated May 21, 2019.

⁴ See Memorandum, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated July 31, 2019.

⁵ See Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; U.S. Customs and Border Protection Entry Summary Information: Changzhou Trina Solar Energy Co., Ltd.," dated August 28, 2019.

⁶ See Trina Solar's Letter, "Certain Crystalline Silicon Photovoltaic Products from China: Supplemental Case Brief," dated September 9, 2019.

⁷ See SunPower's Letter, "Crystalline Silicon Photovoltaic Products from the People's Republic of China: Supplemental Rebuttal Brief," dated September 16, 2019.

⁸ See Trina Solar's Letter, "Certain Crystalline Silicon Photovoltaic Products from China: Withdrawal of Request for a Hearing," dated September 19, 2019.

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results of Countervailing Duty Administrative Review: Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; 2017," which is dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

cells produced in a customs territory other than China. For a complete description of the scope of this administrative review, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by interested parties in their case and rebuttal briefs, and Commerce's analysis thereof, are addressed in the Issues and Decision Memorandum. These issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Commerce Building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and its electronic version are identical in content.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce finds that there is a subsidy (*i.e.*, a financial contribution from an authority that gives rise to a benefit to the recipient), and that the subsidy is specific.¹⁰ Commerce notes that in making these findings, it relied on total facts available and, because Commerce finds that the mandatory respondents did not act to the best of their ability to respond to Commerce's request for information, Commerce continues to find all programs in this review countervailable.¹¹

¹⁰ See section 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

¹¹ See sections 776(a) and (b) of the Act; *see also* Preliminary Decision Memorandum.

Changes from the *Preliminary Results*

Based on the comments received from interested parties, Commerce made no changes to the net subsidy rates calculated for the companies subject to this administrative review.

Final Results of Administrative Review

The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Commerce normally determines the rates for non-selected companies in administrative reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 705(c)(5)(A)(ii) of the Act provides that, if the countervailable subsidy rates established for all individually-examined exporters/producers are *de minimis* or based entirely on adverse facts available under section 776 of the Act, Commerce may use any reasonable method to establish a subsidy rate for exporters/producers that were not individually-examined, including averaging the weighted-average countervailable subsidy rates determined for the individually-examined exporters and producers.

In this review, the countervailable subsidy rates calculated for the three mandatory respondents (*i.e.*, Risen Energy Co., Ltd.; Shenzhen Sungold Solar Co., Ltd.; and Sol-Lite Manufacturing Co., Ltd.) are based entirely on facts available pursuant to section 776 of the Act.¹² As a result, Commerce is using "any reasonable method" to establish the subsidy rate for the non-selected companies under review. Commerce finds that it is reasonable to rely on the rates established for the three mandatory respondents as the rate for the non-selected companies under review, particularly because there is no other information on the record that can be used to determine the rate for the non-selected companies. This method is consistent with Commerce's past

¹² See *Preliminary Results* and accompanying Preliminary Decision Memorandum.

practice.¹³ Commerce finds the countervailable subsidy rates for the producers/exporters under review to be as follows:

Company	Subsidy Rate (percent <i>ad valorem</i>)
Changzhou Trina Solar Energy Co., Ltd.	94.83
Chint Solar (Zhejiang) Co., Ltd.	94.83
Hefei JA Solar Technology Co., Ltd.	94.83
Risen Energy Co., Ltd.	94.83
Ri Shen Products (SZ) Ltd.	94.83
Shanghai JA Solar Technology Co., Ltd.	94.83
Shenzhen Sungold Solar Co., Ltd.	94.83
Sunny Apex Development Limited	94.83
Sol-Lite Manufacturing Co., Ltd.	94.83
Trina Solar (Changzhou) Science & Technology Co., Ltd.	94.83

Disclosure

All calculations in these final results are based on publicly-available information and are described in their entirety in the Preliminary Decision Memorandum.¹⁴ As such, the publication of this notice constitutes disclosure of the calculations performed in connection with these final results to interested parties.¹⁵

Assessment Rates

Consistent with 19 CFR 351.212(b)(2), Commerce intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final

¹³ See, e.g., *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 81 FR 20619 (April 8, 2016), unchanged in *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Final Affirmative Countervailing Duty Determination*, 81 FR 75045 (October 28, 2016) (assigning the sole mandatory respondent's rate, which was based on adverse facts available, as the all-others rate), and *Circular Welded Carbon-Quality Steel Pipe from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 77 FR 19192 (March 30, 2012), unchanged in *Circular Welded Carbon-Quality Steel Pipe from India: Final Affirmative Countervailing Duty Determination*, 77 FR 64468 (October 22, 2012) (assigning the average of the mandatory respondents' rates, which were based solely on adverse facts available, as the all-others rate).

¹⁴ See Preliminary Determination Memorandum at Appendix I, "AFA Rate Calculation."

¹⁵ In accordance with 19 CFR 351.224(b), Commerce is normally required to disclose calculations performed in connection with the final results of a review within five days of its public announcement or, if there is no public announcement of, within five days after the date of publication of the final results of review.

results of review, to liquidate shipments of subject merchandise produced and/or exported by the companies listed above, entered, or withdrawn from warehouse, for consumption on or after January 1, 2017 through December 31, 2017, at the *ad valorem* rates listed above.

Cash Deposit Instructions

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respective companies listed above. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations of an APO is a sanctionable violation.

Notification to Interested Parties

Commerce is issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 10, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Subsidy Rate for the Non-Selected Companies Under Review
- V. Discussion of the Issue: Whether to Rescind this Review for Trina Solar
- VI. Recommendation

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